

Forty - second Annual Report

MARYLAND STATE BOARD

OF

MOTION PICTURE CENSORS



Offices
212 N. Eutaw Street
Baltimore 1, Maryland

Forty-second Annual Report
MARYLAND STATE BOARD
OF
MOTION PICTURE CENSORS
1957-1958

C. MORTON GOLDSTEIN

Chairman

MAUDE B. DORRANCE

Vice-Chairman and Treasurer

WALTER S. RINGLER

Secretary

ELWOOD L. GEBHART

Administrative Assistant

Offices

212 N. Eutaw Street

Baltimore 1, Maryland



THEODORE R. MCKELDIN
Governor of Maryland

HONORABLE THEODORE R. MCKELDIN
GOVERNOR OF MARYLAND
STATE HOUSE
ANNAPOLIS, MARYLAND

DEAR GOVERNOR MCKELDIN:

The Maryland State Board of Motion Picture Censors takes pleasure in submitting to you herewith the forty-second Annual Report of its operations, for the fiscal period ending June 30, 1958. We detail herein, the number of films examined, the Board's action taken thereon, other pertinent data, as well as an itemization of receipts and disbursements.

WORK OF THE BOARD

The Board reviewed during the fiscal year, 1,260 original subjects, consisting of 7,067 reels comprising 5,844,941 feet of film. In addition thereto, 6,845 duplicate subjects were processed.

Of the original films presented to and processed by the Board, a total of 1,249 were approved without modification, 11 were modified in part, and no film was rejected in its entirety.

FINANCIAL STATEMENT

The year's total receipts were \$68,219.00 as compared with \$71,387.00 the previous year. This revenue was derived from fees required by law for the Board's examination of films. After defraying all expenses, the sum of \$3,924.55 reverted to the State Treasury, from the income collected. The all-time sum reverting to the Treasury, consisting of income over expenditures now amounts to \$571,955.35, in addition to \$19,487.38 from June 1, 1916 to September 30, 1920.

INSPECTIONS

The Board employs two full time inspectors, and three part-time inspectors, in addition to a supervisor. A total of 3,235 inspections was made during the year. These inspections were of theatres throughout the State, periodically made, to check compliance with the State motion picture censorship law, and orders issued by the Board.

STATE CENSORSHIP

This Board was created in 1916 by Legislative enactment, and has continuously operated since that time. Its duties include the examination of all motion picture films or views to be exhibited or used in the State, with the exception of news reels which were exempted in 1955.

A review of the accomplishments of this Department, is mainly concerned with its activities in administering the State law of Motion Picture Censorship, and the gradual development of the jurisprudence applicable thereto.

There are three basic means by which regulatory power is exercised over movies. Our system of censorship, or "prior restraint", requires review and approval of motion pictures, before they can be disseminated to the public. Those States without such "prior restraint" laws, provide subsequent sanctions or penal laws, punishing those who have already distributed and shown movies found to be objectionable. The third form of regulation is exercised by non-official groups thru persuasion, or the exercise of economic power.

In the early years of censorship by "prior restraint", motion pictures were considered a business, and the constitutionality of such laws was upheld (1915) as not being a media of communication entitled to the protection of the freedom of press and speech guarantees in the United States Constitution. During the 1920's, popular indignation over the increasing flood of sensational movies, caused the introduction of 48 bills in various State Legislatures seeking to impose censorship. As a result, the industry began to regulate itself, culminating in a Production Code Administration applicable to its own membership on a voluntary basis, but not affecting non members here or abroad.

A changed judicial attitude became evident in 1948 when the Supreme Court of the United States, decided that motion pictures were not a business, but entitled to speech protection. Several years later, the same Court in the *Burstyn Case*, held that prior restraint can be justified only under most "exceptional" circumstances. Confronted with a statute proscribing "sacrilegious" films, the Court overturned a ban on the film "*The Miracle*", on the ground that the statutory standard was too broad and incapable of precise definition. Thereafter, many cities and States abandoned "prior restraint" censorship, and today, Maryland, New York, Virginia, and Kansas remain to enforce censorship on a State-wide basis. The decline in such activity reflects the restraint on the part of the censors themselves, as dictated by the increasing number of court decisions firmly setting the limitations thereon. A change in the emphasis of censorship activity is evident for all practical purposes, and now is almost exclusively concerned with the treatment of sex on the screen, partially caused by general legal opinion that this is possibly the only area in which censorship is still constitutional.

Prior to 1955, the decisions of the various State Boards in licensing moral and proper films, and in disapproving films which were considered sacrilegious, obscene, indecent, inhuman or immoral, or such as tended in the judgement of the Board to debase or corrupt morals or incite to crime, were based on broad considerations with varying degrees of the undefined words used in State Laws. Such decisions were in part, colored by the sensibilities of the locality involved and the personality of the censor. After the *Burstyn* decision, the Maryland Legislature realized that undefined categories were too broad and indefinite to withstand constitutional attack, and amended the law by defining the standards as follows:

1. A motion picture film or view shall be considered to be obscene if, when considered as a whole, its calculated purpose or dominant effect is substantially to arouse sexual desires, and if the probability of this effect is so great as to outweigh whatever other merits the film may possess.

2. A motion picture film or view shall be considered to be of such a character that its exhibition would tend to debase or corrupt morals if its dominant purpose or effect is erotic or pornographic; or if it portrays acts of sexual immorality, lust or lewdness, or if it expressly or impliedly presents such acts as desirable, acceptable or proper patterns of behavior.
3. A motion picture film or view shall be considered of such a character that its exhibition would tend to incite to crime if the theme or the manner of its presentation presents the commission of criminal acts or contempt for law as constituting profitable, desirable, acceptable, respectable or commonly accepted behavior, or if it advocates or teaches the use of, or the methods of use of, narcotics or habit-forming drugs.

Since then, a series of court decisions in Maryland, New York and the Supreme Court of the United States, have further evaluated "prior restraint" censorship with relation to the free speech guarantees of the Constitution, and in each instance stood ready to strike down any censorship attempt which appeared to range beyond the censors' constitutional or statutory powers. These decisions confine the use of "prior restraint" within a narrower range than ever before, and thus far have held that the motion pictures involved were not of the "magnitude" contemplated by prior restraint, and were not too "rugged" for general consumption.

The Maryland Court of Appeals applied its concept of obscenity to the motion picture "Naked Amazon" on March 7th, 1957, after the Board had ordered deletions of nudity shown below the waist. The Court ruled that none of the scenes portrayed any action which was suggestive of sexual activity. Nudity they said, "is not necessarily obscene or lewd". Prior to this decision, it had been generally understood by writers and others interested in the field of Motion Picture Censorship, that the impact of motion pictures on the public, was greater than other media of expression. It is noteworthy that our Court of Appeals quoted magazine and book cases, and thus placed motion pictures in the same category as the still photograph or the printed word.

Too, the meaning of obscenity received the attention of the Supreme Court of the United States in the cases of Roth and Alberts vs. United States (June, 1957). The Supreme Court for the first time unequivocally held that obscenity is not within the area of constitutionally protected speech and press, in spite of the unconditional phrasing of the first Amendment. Implicit in the history of said Amendment they say, is the rejection of obscenity as utterly without redeeming social importance. It now seems clear that the Supreme Court will approve a statute prohibiting obscenity in motion pictures, if limited to that material which deals with sex in a manner appealing to prurient interests. Sex and obscenity not being synonymous, the Justices adopt this test: Whether to the average person, applying contemporary community standards, the dominant theme of the material taken as a whole appeals to prurient interests. Such standards provide safeguards adequate to withstand the charge of constitutional infirmity. They reject any test which deals with subject matter arousing sexual desires or impure thoughts in the young, the immature or the highly prudish. In like manner, no test based on the indifference of the scientific or the so called worldly wise and sophisticated, would be valid.

The Supreme Court thus resolved constitutional doubts, by the simple device of fashioning a dichotomy between obscenity and materials having social importance, and holding that the former is not constitutionally protected. Obscenity is thus put outside the pale of freedom of expression, and if it appeals to "purient interest", the Bill of Rights has no application. They recognized that liberty has a moral dimension, albeit dedicated to the principle of minimal restraint.

In that year, obscenity was considered by the New York Court of Appeals relating to the movie "Garden of Eden", showing the activities in a nudist camp. The New York Court said:

"As to the concepts of decorum or delicacy or manners, the Court is not a censor of plays and does not regulate manners. We need not re-assert our deeply felt conviction that censorship for real, true obscenity is valid and essential in our society. This picture is not obscene in the sense in which the law has used that term for centuries. Nothing sexually impure or filthy is shown or suggested and so there is no legal basis for censorship. We do not pass judgement on nudism - we simply are obeying the Supreme Law. Our individual predilections are left out."

The Court cautioned that reason and moderation must be employed in motion picture censorship in the application of prior restraint, but that obscenity, real, serious, not imagined or puritanically exaggerated, is today as in all the past centuries, a public evil, a public nuisance, a public pollution.

The law permitting censors to ban "immoral films" is presently being tested in the Courts, based on the picture "Lady Chatterley's Lover". The New York Censor Board ordered deletions because the picture presented adultery "as a desirable, acceptable and proper pattern of behavior". The New York Supreme Court reversed the Board on constitutional grounds, but the New York Court of Appeals again reversed, and ruled the Censor Board was correct. The Supreme Court of the United States, will now have the final say.

Thus far, Courts have held that standards set forth in the law must be definite, with but a limited permissible discretion. The personal opinion of the censor cannot stand as a basis for "prior restraint", nor can he be arbitrary or capricious.

These Court opinions have brought into focus the disparity between the motion picture law and the present Maryland law prohibiting youngsters from buying certain magazines. On August 12th, 1957, the Board of Motion Picture Censors recommended that it be given authority to license certain films as restricted for those under 16 years of age, when such films could not otherwise be denied a license. The Attorney General of Maryland thereupon ruled that such a law would be constitutional. In furtherance of the Board's request, a bill was introduced in the 1958 session of the Legislature, but was defeated. The bill will again be presented to the Legislature in 1959.

Any discussion of art, morals and the law will produce divergent views. While art cannot be antiseptic, neither motion pictures nor any other form of art, has a right to corrupt morals. A true understanding of the function of art is a far cry from the showing of sexual impurity in the form of dirt for dirt's sake, presented as a calculated incitement to improper desires.

Under our system of government there is an accommodation for the widest variety of taste and ideas. What is good and proper varies with individuals as it does from one generation to another. What seems to be trash to one may have for others fleeting or even enduring values. Some films may be repulsive to ideas of propriety, and to the more liberal minded, offensive as lacking in taste and refinement; but unless such films can be judged as violating the law, they must be licensed.

It is recognized that good taste cannot be legislated, and within the bounds essential to the preservation of a free press, human actions and expressions may fall short of what is legally punishable, yet may still defy the moral standards of many.

The final story may never be written. Motion pictures are partially cloaked with Constitutional protection, but changing public opinion and the Court's tolerance of what is included within the concept of obscenity from time to time, will cause censorship to ebb and flow.

Respectfully submitted,

C. MORTON GOLDSTEIN, *Chairman*

MAUDE B. DORRANCE, *Vice-Chairman*

WALTER S. RINGLER, *Secretary*

July 31, 1958.

MARYLAND STATE BOARD OF MOTION PICTURE CENSORS

For the Fiscal Year Ended June 30, 1958

RECEIPTS

FEES:

Original Reels—35MM (5,820,853 ft.)	\$18,519.00	
Original Reels—16MM (24,088 ft.)	164.00	
		\$18,683.00
Duplicate Reels—35MM (44,633,934 ft.)	\$48,266.00	
Duplicate Reels—16MM		
		\$48,266.00
Sale of Substitute Seals (1,270)	1,270.00	
		\$68,219.00
Deposited to Credit of State Treasurer		\$68,219.00

EXPENSES

SALARIES:

Board Members	\$ 9,300.46	
Other Employees	\$38,745.81	
		\$48,046.27

OTHER EXPENSES:

Communication	\$ 959.78	
Contractual Services, Office	304.84	
Printing	405.25	
Office Supplies	517.70	
Office Equipment, Replacement	215.00	
Office Equipment, Additional	439.87	
Office Rent	6,000.00	
Insurance and Bonds	42.97	
Film Approval Seals	2,331.66	
RCA Inspection Service	337.16	
Motion Picture Equipment, Additional	312.00	
Motion Picture Machine Supplies	152.48	
Technical & Special Fees	3,187.50	
Traveling	427.52	
Motor Vehicle Operation & Maintenance	614.45	
		\$16,248.18
		\$64,294.45

BUDGET ACCOUNT (Per Comptroller)

Appropriations, 1958	\$67,207.50	
		\$67,207.50
Less Reversion to Reserve Fund	2,913.05	
		\$64,294.45
General Fund Disbursement		\$64,294.45

MARYLAND STATE BOARD OF MOTION PICTURE CENSORS
TABLE SHOWING TOTAL ANNUAL RECEIPTS AND DISBURSE-
MENTS TOGETHER WITH THE AMOUNTS REVERTING
TO THE STATE TREASURY

October 1, 1920 - June 30, 1958

			Amount Reverting to
	Receipts	Disbursements	State Treasury
10-1-20 to 9-30-21	\$ 26,488.33	\$ 19,025.26	\$ 7,463.07
10-1-21 to 9-30-22	26,866.90	19,842.12	7,024.78
10-1-22 to 9-30-23	27,059.51	19,892.93	7,166.58
10-1-23 to 9-30-24	26,338.50	20,730.44	5,608.06
10-1-24 to 9-30-25	29,249.50	22,207.24	7,042.26
10-1-25 to 9-30-26	30,207.92	22,662.82	7,545.10
10-1-26 to 9-30-27	32,498.55	24,883.80	7,614.75
10-1-27 to 9-30-28	38,165.57	27,734.69	10,430.88
10-1-28 to 9-30-29	44,486.27	32,937.76	11,548.51
10-1-29 to 9-30-30	38,954.98	31,718.26	7,236.72
10-1-30 to 9-30-31	35,245.85	31,816.79	3,429.06
10-1-31 to 9-30-32	35,637.44	32,158.81	3,478.63
10-1-32 to 9-30-33	35,152.34	34,207.93	944.41
10-1-33 to 9-30-34	36,563.00	37,174.49	9,388.51
10-1-34 to 9-30-35	39,463.00	27,577.76	11,885.24
10-1-35 to 9-30-36	44,073.00	28,927.98	15,145.02
10-1-36 to 9-30-37	49,293.00	28,855.10	20,437.90
10-1-37 to 9-30-38	48,659.00	30,197.34	18,461.66
10-1-38 to 9-30-39	50,180.00	30,302.92	19,877.08
10-1-39 to 9-30-40	53,180.00	29,598.72	23,581.28
10-1-40 to 9-30-41	55,877.00	30,347.18	25,529.82
10-1-41 to 9-30-42	55,561.00	31,135.92	24,425.08
10-1-42 to 6-30-43	39,828.00	22,578.29	17,249.71
7-1-43 to 6-30-44	55,585.00	35,112.59	20,472.41
7-1-44 to 6-30-45	55,054.00	35,090.08	19,963.92
7-1-45 to 6-30-46	59,396.00	35,802.90	23,593.10
7-1-46 to 6-30-47	65,961.00	42,150.48	23,810.52
7-1-47 to 6-30-48	72,832.00	44,814.74	28,017.26
7-1-48 to 6-30-49	78,606.00	47,468.24	31,137.76
7-1-49 to 6-30-50	82,328.00	48,565.63	33,762.37
7-1-50 to 6-30-51	79,885.00	47,689.30	32,195.70
7-1-51 to 6-30-52	82,343.00	55,671.29	26,671.71
7-1-52 to 6-30-53	75,530.00	55,853.09	19,676.91
7-1-53 to 6-30-54	76,865.00	66,106.50	10,758.50
7-1-54 to 6-30-55	73,884.00	66,917.53	6,966.47
7-1-55 to 6-30-56	73,055.00	63,977.38	9,077.62
7-1-56 to 6-30-57	71,387.00	61,974.56	9,412.44
7-1-57 to 6-30-58	68,219.00	64,294.45	3,924.55
	\$1,969,958.66	\$1,398,003.31	\$571,955.35

* The above amount reverting to State Treasury does not include \$19,487.38 for period 6-1-16 to 9-30-20.

MARYLAND STATE BOARD OF MOTION PICTURE CENSORS

CLASSIFICATION OF FILMS

July 1, 1957—June 30, 1958

1957	Features	Short Subjects	Cartoons	Serials	Adver- tising	Misc.
July-----	544	45	136	27	12	0
August....	488	48	91	42	9	0
September..	508	57	105	18	5	0
October....	631	90	165	26	7	0
November..	462	81	158	19	20	0
December..	524	40	26	9	8	0
1958						
January---	462	60	109	12	12	0
February---	392	32	100	20	6	0
March-----	452	45	109	20	6	0
April-----	420	28	112	21	6	0
May-----	414	36	130	8	9	0
June-----	488	42	132	8	13	0
TOTALS..	5,785	604	1,373	230	113	0

SUMMARY OF REPORT

Films, Original-----	1,260				
Films, Duplicate-----	6,845				
Reels, Original-----		7,067			
Reels, Duplicate-----		55,370			
Number of Feet, Original-----				5,844,941	
Number of Feet, Duplicate-----				44,633,934	
Films Approved, Original-----					1,249
Films Approved, Duplicate-----					6,827
Films Modified in Part, Original----					11
Films Modified in Part, Duplicate----					18
Films Denied-----					0
TOTALS-----		8,105	62,437	50,478,875	8,105

MARYLAND STATE BOARD OF MOTION PICTURE CENSORS

REPORT OF FILMS EXAMINED

July 1, 1957—June 30, 1958

1957	Films		Reels		No. of Ft.		Films Approved	Films Modified In Part,		Films Denied
	Original	Duplicate	Original	Duplicate	Original	Duplicate		Original	Duplicate	
July-----	113	651	504	4,469	405,275	3,626,382	763	1	0	0
August-----	115	563	597	5,078	660,761	4,115,217	676	2	0	0
September-----	88	605	507	4,628	413,302	3,601,112	692	0	1	0
October-----	146	773	736	5,450	584,827	4,403,679	914	5	0	0
November-----	129	611	643	4,761	515,521	3,845,907	738	1	1	0
December-----	90	517	546	4,392	449,221	3,625,190	607	0	0	0
1958										
January-----	91	564	562	4,543	445,045	3,627,364	650	0	5	0
February-----	88	462	510	4,050	399,688	3,246,369	548	1	1	0
March-----	96	536	586	4,408	476,131	3,555,363	629	0	3	0
April-----	96	491	612	4,106	496,217	3,320,288	587	0	0	0
May-----	94	503	552	4,010	440,504	3,201,939	589	1	7	0
June-----	114	569	712	5,475	558,449	4,465,124	683	0	0	0
TOTALS-----	1,260	6,845	7,067	55,370	5,844,941	44,633,934	8,076	11	18	0